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Kenneth H. Crain

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7590
Steven W. Thrasher
Jackson Walker, LLP
2435 North Central Expressway, #600
Richardson, TX 75080

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/812,405
Filing Date: March 19, 2001
Appellant(s): CRAIN ET AL.

Crain et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/15/07 appealing from the Office action
mailed 10/11/06.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,890,152	Rapaport et al.	3-1999
5,625,783	Ezekiel et al.	4-1997

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rapaport et al, U.S. Patent No. 5,890,152 in view of Ezekiel et al. US Patent 5,625,783.

As per claim 1, Rapaport et al. teaches a system that enables a recording of user-viewable stimuli comprising:

A processing platform for executing code capable of recording a user-viewable visual stimuli; (see Rapaport et al., column 2, lines 34 – 40; the examiner interprets user-viewable stimuli to be any data viewable by the user);

verifying a change in the visual stimuli (see Rapaport, column 12, lines 33 – 37; the examiner interprets determining whether a scroll bar is depressed as verifying a change in visual stimuli), without requiring user specified information as input (column 12, line 46-68; Sensing changes in eye pupil diameter is neither an user specified information nor a examination of how the user is looking at the visual stimuli); and

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creating a visual event related to the change in the visual stimuli (see Rapaport, column 12, lines 37 – 40; the examiner interprets changing the activation value of the profile relating to the media file as creating a visual event relating to the change in visual stimuli); and

A storage platform for storing at least the user-viewed visual stimuli, wherein the storage platform is operably coupled to the processing platform (see Rapaport, column 2, lines 32 - 34).

Wherein the processing platform is adopted to reconstruct at least one of:

The visual stimuli (see Rapaport col. 23, lines 62-68); and

The change in the visual stimuli, at a specific time that a user viewed the visual stimuli.
(see Rapaport col. 23, lines 62-68)

However Rapaport fails to teach creating a visual event as a result of a browser event that causes a change in the visual stimuli;

Ezekiel teaches creating a visual event as a result of a user interaction event that causes a change in the visual stimuli; (see, Ezekiel; column 3, lines 10-40)

It would have been obvious to an artisan at the time of the invention to include Ezekiel's teaching with system of Rapaport in order to provide users with a computer system that can automatically and dynamically construct user inter menus "on the fly."

As per claim 2, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a user interaction device coupled to the processing platform (see Rapaport et al., column 2, lines 31 – 32).

As per claim 3, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport further teaches the system wherein the processing platform executes code capable of recording a user-viewable stimuli, by:

detecting a visual event;

verifying that the visual event involves a parameter that changes a viewable stimuli; and

recording at least one parameter (see Rapaport et al., column 12, lines 26 – 40; the user's progression through the media file segment is interpreted as the visual event, the rate of this progression is detected, analyzed and if there is a change the activation value parameter is changed and stored).

As per claim 4, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a browser coupled to the processing platform (see Rapaport et al., column 2, line 33).

As per claim 5, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a browser interface coupled to a processing platform (see Rapaport et al., column 2, lines 29 - 40; the device described can be interpreted to be a processing platform).

As per claim 6, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system comprising a network coupled to the processing platform (see Rapaport et al., column 2, lines 26 - 28).

As per claim 7, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches the system wherein the storage platform comprises cached memory (see Rapaport et al., column 5, lines 17 – 21 and figure 1, item 106; it is inferred that random access memory is used as cached memory).

As per claim 8, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport et al. further teaches where the system is maintained in a Personal Digital Assistant (PDA) (see Rapaport et al., column 5, lines 22 – 26; the examiner interprets a “web-enabled telephone” as a personal digital assistant).

As per claim 9, which is dependent on claim 6, Rapaport and Ezekiel teach the system of claim 6 (see rejection above). Rapaport et al. further teaches the system wherein the network is the internet (see Rapaport et al., column 2, lines 26 – 28).

As per claim 10, which is dependent on claim 6, Rapaport and Ezekiel teach the system of claim 6 (see rejection above). Rapaport et al. further teaches the system comprising a host computer coupled to the network, the host computer for communicating with the processing platform (see Rapaport et al. column 6, lines 1 – 4; by accessing a search engine via a computer network, it can be inferred that the processing platform is communicating with a search engine host computer).

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As per claim 11, which is dependent on claim 1, Rapaport and Ezekiel teach the method of claim 1 (see rejection above). Rapaport et al. further teaches an eye-tracking device coupled to the processing platform (see Rapaport et al. column 3, lines 1 – 3).

As per claim 12, which is dependent on claim 11, Rapaport and Ezekiel teach the method of claim 11 (see rejection above). Rapaport et al. further teaches that the eye-tracking device is enabled to monitor pupil dilation (see Rapaport et al., column 25, lines 32 – 35).

As per claim 13, Rapaport teaches a system that enables a recording of user-viewable visual stimuli comprising:

a processing platform for:

executing code capable of recording a user-viewable visual stimuli (see Rapaport et al., column 2, lines 34 – 40; the examiner interprets user-viewable stimuli to be any data viewable by the user);

verifying a change in the visual stimuli (see Rapaport, column 12, lines 33 – 37; the examiner interprets determining whether a scroll bar is depressed as verifying a change in visual stimuli)

creating a visual event related to the change in the visual stimuli (see Rapaport, column 12, lines 37 – 40; the examiner interprets changing the activation value of the profile relating to the media file as creating a visual event relating to the change in visual stimuli); and

and to the change in the user's eye position with respect to a portion of the visual stimuli; (see Rapaport, column 25, lines 30 – 35; column 12, lines 55-58; The coordinates of eye

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gaze position is the user's eye position with respect to a portion of the visual stimuli column 25, lines 32 – 35; the examiner interprets changing a rate of progression value as creating a visual event).

a storage platform for storing at least the user-viewed visual stimuli, the storage platform coupled to the processing platform that display the change in the visual stimuli in association with the changes (see Rapaport et al., column 2, lines 32 - 34).

The change in the visual stimuli, in association with the change in the user's eye position with respect to a portion of the visual stimuli, at a specific time that a user view ed the visual stimuli at a specific time that a user viewed the visual stimuli. (see Rapaport, column 12, lines 55-58; It is inherent that coordinates is measured at a specific time)

However Rapaport fails to teach creating a visual event as a result of a browser event that causes a change in the visual stimuli and;

Ezekiel teaches creating a visual event as a result of a user interaction event that causes a change in the visual stimuli;

It would have been obvious to an artisan at the time of the invention to include Ezekiel's teaching with system of Rapaport in order to provide users with a computer system that can automatically and dynamically construct user inter menus "on the fly."

As per claim 14, which is dependent on claim 13, Rapaport and Ezekiel teach the data signal of claim 13 (see rejection above). Rapaport teaches a parameter related to a visual event, wherein the parameter is a network address of all online content immediately displayed within a browser window (see Rapaport et al., column 9, lines 49 – 53).

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As per claim 15, which is dependent on claim 13, Rapaport and Ezekiel teach the system of claim 13 (see rejection above). Rapaport teaches parameter related to the visual event, wherein the parameter is a two-dimensional offset of the online content as it is displayed within a browser window (see Rapaport, column 25, lines 25 – 29; it can be inferred that if the number of scrolled pages per minute are calculated, the two-dimensional offset for each page of the content must be calculated and stored).

As per claim 18, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1 (see rejection above). Rapaport further teaches the system of claim 1, wherein the change is caused by a user (see Rapaport et al., column 2, lines 34 – 40).

As per claim 19, which is dependent on claim 1, Rapaport and Ezekiel teach the system of claim 1. Ezekiel teaches wherein a change in visual stimuli is caused by a source of the visual stimuli (see, Ezekiel; column 3, lines 10-40)

As per claim 20, which is dependent on claim 1, Rapaport teaches the system of claim 1. Rapaport does not teach the system of claim 1, wherein the change is caused by the processing platform. (see, Ezekiel; column 3, lines 10-40)

As per claim 21, it is of similar scope to claim 13 and is rejected under the same rationale.

(10) Response to Argument

Appellant's arguments focused on the following:

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A) Rapaport fails to teach verifying a change in the visual stimuli without requiring user specified information as an input.

A) The examiner does not agree for the following reasons:

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

In this case, Rapaport teaches "verifying a change in the visual stimuli without requiring user specified information as an input" because its system identifies the changes in profile object activation value, (see Rapaport column 12, lines 10-12), which includes the coordinates of users' eye gaze and users' eye pupil diameter, and by identifying these changes, Rapaport is verifying changes in the visual stimuli. (see Rapaport column 12, lines 40-60) These visual stimuli are the same as those identified in appellants' specification, which include data regarding where a user's eyes are looking and information about the user's eyes, such as pupil dilation. (see page 13 of Appellant's specification)

B) Rapaport fails to teach executing code capable of recording a user-view-able stimuli.

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B) Examiner disagrees. Rapaport teaches “executing code capable of recording a user-view-able stimuli” because it stores activation value in personal profile database, (see Rapaport column 6, lines 55-60) and activation values are visual stimuli. (see Examiner’s response to A above)

C) Rapaport fails to teach creating a visual event relating to the change in the visual stimuli.

C) Examiner disagrees. Rapaport teaches “creating a visual event relating to the change in the visual stimuli” because its software program would highlight sections of a media file in response to the value assigned to the media file based on its associated key words, (see Rapaport, column 6, lines 55-60), the value and the weight of the key word are determined by profile objection activation value, (see Rapaport, column 13, lines 55-column 14, lines 6) which includes visual stimuli. (see Examiner’s response to A above) Therefore, a change in visual stimuli could cause the software program to highlight a media file. (see Rapaport, column 6, lines 55-60)

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Peng Ke



Conferees:

Kristine Kincaid
Kristine Kincaid

SUPERVISORY PRIMARY EXAMINER, SPE

TECHNOLOGY CENTER 2100, ART UNIT 2174



Lynne Browne

APPEAL PRACTICE SPECIALIST, TQAS

TECHNOLOGY CENTER 2100

2100 RANDOLPH

Bldg/Room

Organizational

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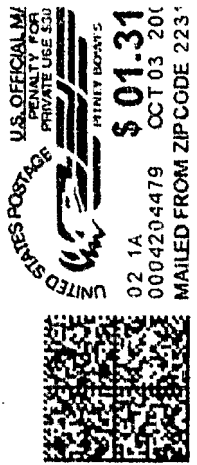
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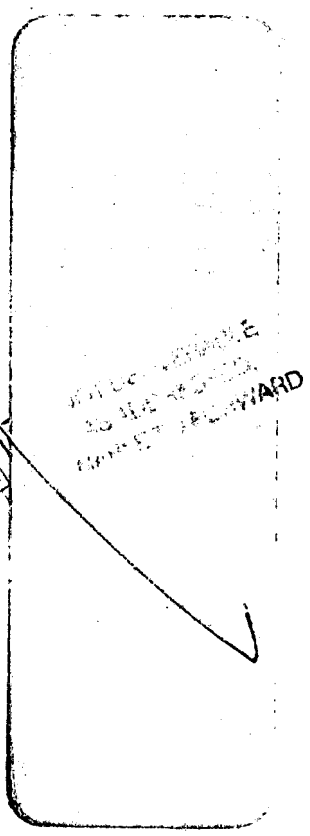
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